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GOVERNOR

OFFICE OF THE GOVERNOR

Kim Reynolds
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September 20, 2012

The Honorable Janet Napolitano
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Napolitano:

This letter intends to communicate the State of Iowa's perspective and continued concerns on the ongoing Federal policy dispute between the Federal Emergency Management Agency (FEMA) and the U.S. Department of Homeland Security (DHS) Office of Inspector General (OIG) regarding further delays in replacing the University of Iowa's (U of I) Hancher-Voxman-Clapp (HVC) and Art Building East (ABE) facilities. We would appreciate the opportunity to discuss this matter further with you via phone.

This letter follows numerous letters and conversations over the last several months, including conversations with Administrator Fugate, Regional Administrator Freeman, and a brief conversation with you in July. We commend the FEMA team for their openness during this process, which showed their commitment to a true partnership with the states.

We have high expectations for state agencies and departments regarding efficiency and execution of public programs. We extend those same high expectations to the Federal government – the taxpayers deserve nothing less. Unfortunately, the bureaucratic bickering between the DHS OIG and FEMA has extended beyond an acceptable timeframe. This past June, we surpassed the four year anniversary of the flooding incident -- a milestone that should have been marked by construction crews rather than piles of paperwork and policy wrangling. Quite simply, Iowa taxpayers have not been well-served, and the University of Iowa community is becoming increasingly frustrated with the delays in beginning the rebuilding of these flood-damaged buildings on campus.

The U of I will be entering the critical path for the overall recovery project in the month of October as architectural planning transitions into site work and construction. Each month the project is delayed will cause nearly \$1 million in construction escalation costs, which excludes FEMA's additional rent costs for the temporary facilities. The Iowa Board of Regents (Board) will be meeting on October 24, 2012, on the U of I campus in Iowa City. The issue of flood recovery is discussed at every Board meeting and the Board will request an overall progress update and seek information on upcoming contracts that are scheduled to be bid for

construction. The Board is required to release the agenda and docket items for public record purposes one week in advance of scheduled meeting dates. Thus, to ensure that cost overruns are not incurred due to further delays, we ask that the dispute between the U.S. OIG and FEMA be resolved before October 17, 2012. We also request that documents from the State of Iowa leaders are fully considered in DHS head-quarter's review of the issue. Although the actions of State and University employees were not questioned in this audit, the decision you will soon make will directly and significantly impact the finances of the University, its students and the broader Iowa City community. President Obama has visited the U of I campus numerous times and state leaders, students, and the larger community are anxious for his Administration to prioritize the rebuilding of the HVC and ABE facilities.

In FEMA's official response to the DHS OIG report, Administrator Fugate clearly rejected the OIG's recommendations and reaffirmed previous decisions by numerous FEMA leaders to replace the University of Iowa facilities. We were heartened by Administrator Fugate's decision and ask for your quick decision to bring finality to this issue and help the University of Iowa move forward with a full recovery.

You toured the University of Iowa's flood-damaged facilities and saw firsthand the severe impact that the flood of 2008 had on the campus and the broader community. As the former Governor of Arizona, you have insight into the negative impact that a prolonged Federal policy dispute can have on a state. Thus, we call on you and Under Secretary Borrás to provide prompt resolution to this longstanding issue.

At the heart of the issue is a policy disagreement between FEMA and the DHS OIG on FEMA's 50% Rule policy implementation. The Stafford Act provides FEMA flexibility in order to provide the solution that aligns with the long-term interests of taxpayers. It is quite predictable that further flooding will occur in the current footprint of the HVC and ABE facilities. We do not want the U of I students and the broader community to once again be victimized by the short-sighted recommendations of the OIG. We also remain concerned that a retroactive change to a FEMA policy could have a chilling impact on communities across the country as uncertainty would be injected into every FEMA policy decision. Siding with the OIG in this dispute would paralyze FEMA policy makers and state emergency responders and require the OIG to be involved in every FEMA policy decision. If you decide to side with the OIG in this matter, consider this a standing request that the OIG pre-approve all major policy decisions impacting the State in Federally-declared disasters. Earlier this summer, State officials sat down with the very FEMA officials involved in the policy development and those individuals affirmed that FEMA Region VII's interpretation of the policy was accurate -- their opinion should be appropriately weighted in this dispute. FEMA leaders in the Public Assistance Program, the General Counsel's Office, and the Administrator's office have confirmed that FEMA Region VII followed the FEMA policy as intended.

We appreciate that Federal OIGs provide important accountability to prevent fraud and abuse, but in this case the OIG has caused delays in recovery that have real financial costs. FEMA Region VII personnel were not accused of fraud or abuse or of violating any federal law or rule.

We also believe that the DHS OIG can help improve coordination with states who might find themselves in a similar situation in the future. Specifically, the DHS OIG should do a better job of incorporating the views of state entities in their investigation and give state and local entities an opportunity to officially comment on audits that will directly impact state and university finances. DHS OIG staff should also better communicate clear process steps, associated decision makers, and associated timelines for each step of the process to all impacted parties. In addition, the OIG work should be more expeditious. The length of the OIG's investigation dragged on for nine months which ultimately increased costs for all parties involved. Finally, the DHS OIG should be more measured in causing unnecessary delays due to pure policy differences with operating components. If such restraint is not shown, it seems hard to expect efficient operations of Federal programs.

Again, we wholeheartedly support the FEMA position as expressed in their official response to the DHS OIG report and appreciate the speed with which FEMA responded. We understand that you and/or the Under Secretary for Management can serve as the final arbiter of this policy dispute between the OIG and FEMA. We respectfully ask that you affirm the FEMA policy decision to replace these important facilities and do so by October 17, 2012. Such a decision would allow the University to replace these buildings and make significant progress toward recovery from the devastating 2008 floods.

Sincerely,



Terry E. Branstad
Governor of Iowa



Kim Reynolds
Lt. Governor of Iowa

cc: Craig Fugate, Administrator, FEMA
Rafael Borrás, Under Secretary for Management, DHS
Charles K. Edwards, Acting Inspector General, DHS
Members of the Iowa Congressional Delegation
Craig Lang, President, Iowa Board of Regents
Sally Mason, President, University of Iowa
Mark Schouten, Administrator, Iowa Homeland Security and Emergency Management